

**THE CAUSES OF CONSTRUCTION DISPUTE ON CLIENT  
ORGANIZATIONS**

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## **DEDICATION**

**This study is especially dedicated to my beloved  
Parents, Brothers, Sisters and  
Yun Er for all your support, care and love.**

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## **ABSTRACT**

Construction projects are increasingly complex, resulting in complex contract documents. Complex construction can likewise result in complex disputes. Dispute is inevitable in construction projects which predominantly arise from complexity and magnitude of works, multiple prime contracting parties, poorly prepared and /or executed contract documents, inadequate planning, financial issues and communication problems. Any one of these factors can overturn a project and lead to complicated litigation and arbitration, increased costs, time overrun, and a breakdown in the parties' interest and relationship. Thus, the objectives of this study are to study and identify the causes of construction dispute as well as its impact on client's organization. This paper also reviews the causes of dispute contributed by clients, designers and contractors in construction project and suggestion on how to minimize or avoid the occurrences of construction dispute. A questionnaire survey was carried out in the state Johor Bahru and the feedbacks were analyzed using important index (Likert Scale) and average index analysis. The results show that people, process, and project all contribute to such dispute potential. Overall, the respondents are agreed that unresolved construction disputes will only bring negative impact on client's organization which is time and cost overruns, diminution of respect between parties-deterioration of relationship and breakdown in cooperation and additional expenses in managerial and administration.

## **ABSTRAK**

Projek pembinaan adalah semakin kompleks serta mempunyai kontrak dokumen yang rumit. Kerumitan projek biasanya akan mengakibatkan pertikaian antara pihak-pihak yang terlibat dalam pembinaan. Kebanyakan pertikaian terhadap masalah dan konflik tidak boleh dielakkan kerana ia terjadi daripada kerumitan dan tahap kerja, pihak-pihak yang berhubungan dalam kontrak, kesediaan dan pelaksanaan dokumen kontrak yang lemah, prancangan yang kurang mantap, isu kewangan dan masalah komunikasi. Salah satu faktor yang dinyatakan di atas akan menterbalikan objektif projek dan membawa kepada dakwaan mahkamah dan timbangtara yang rumit, kenaikan kos, masa tambahan dan keretakan hubungan dan kepentingan sesama pihak yang terlibat. Demikian itu, objektif kajian ini adalah untuk mengkaji dan menegenalpasti punca-punca berlakunya pertikaian pembinaan serta kesannya terhadap organisasi klien. Kertas ini juga menilai punca-punca pertikaian yang disumbangkan oleh klien, pereka dan kontraktor dalam projek pembinaan dan cadangan bagaimana untuk mengurangkan atau mengelakan berlakunya kejadian pertikaian pembinaan. Kajian melalui borang soal selidik telah dijalankan di daerah Johor Bahru dan maklum balas borang soal selidik dianalisis dengan menggunakan analisis Indek Purata dan analisis Skala Likert. Keputusannya menunjukkan bahawa “manusia”, “proses” dan “projek” adalah menyumbang kepada kemungkinan berlakunya pertikaian. Secara keseluruhan, pembalas adalah setuju bahawa pertikaian pembinaan yang tidak diselesaikan akan membawa impak negatif terhadap klien iaitu melebihi masa dan kos, penyusutan hormat antara pihak-pihak yang terlibat serta keruntuhan hubungan kerjasama dan perbelanjaan yang lebih dalam aspek pengurusan dan pentadbiran.

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## LIST OF ABBREVIATIONS

ADR	-	Alternative Dispute Resolution
CPM	-	Critical Path Method
DRB	-	Dispute Review Board
EOT	-	Extension of Time
RFI	-	Request for Information
GDP	-	Gross Domestic Product
IP	-	Important Point
LAD	-	Late Administration Delay
VO	-	Variation Order

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## **CHAPTER I**

### **INTRODUCTION**

#### **1.1 Introduction**

Throughout countries in the world; state that the construction is big business in their country. Construction has important role in their country's development and prosperity. Economics of the country depend very much on the trends of the construction. In Malaysia also a developing country which the construction industry employs over 500,000 people and represent 9.5 percent of the work force in the country in the year 2002. The total contract value of construction in 2002 was exceeded 41.5 billion RM which represents 3.2 percent of the gross domestic product (GDP).

Although it accounts for less than 5 per cent of GDP, the industry is strong growth push because of its extensive linkages with the rest of the economy. In particular, the industry has extensive linkages with construction related manufacturing industries such as basic metal products and electrical machinery (Source: Market Watch Malaysia 2004-Construction and Building Material Industry).



Clear then, anything that impacts on the building and construction industry has potential to affect the whole economic. The construction industry is a unique and complex compare to other industries as it involves many participants in all trends. Due to this, conflict and disputes can be easily occurred as for example; changes in plans, quantities, or details of construction which are inherent in the nature of construction.

That is because much of construction works involves things that are hidden beneath the ground and those hidden things may not actually be as had been anticipated. Also, even with the best of intentions, the plans may not work as well as expected when they are applied to the actual site, traffic, maze of utilities, inclement weather, delays of material delivery, delays of payment, poor planning and management etc.

When changes occur, there is the potential of disagreement. Also, whenever two people interpret contract language, there is the potential of disagreement. The disagreements can regards as disputes which are common in construction industry because the design and construction process are complex and imperfect as well as it takes so many individuals and companies to construct a building.

From the above-mentioned scenario, it should not be surmised that the techniques of conflict management and disputes resolution in construction industry are more developed, compared to other industry. According to Fenn et al (1997), conflict can be managed, possibly to point of preventing it form leading to disputes whereas, disputes require resolution and, therefore, are associated with distinct justifiable issue.

## 1.2 Statement of Problem

Today, carelessness and negligence in construction industry have risen to greater prominence. Political and economic trends are increasing the economic pressure on construction industry; resulting in disputes from careless design and inadequate construction practices. Besides, complex construction can likewise result in complex disputes.

Great concern has been expressed in recent years regarding the dramatic in conflict and disputes in the construction industries of many countries and the attendant high cost both in terms of direct cost (lawyers, claims consultants, management time, delays to project completions) and indirect/ consequential costs (degeneration of working relationships, mistrust between participants, lack of teamwork and resultant poor standard of workmanship).

In construction practice, there are numerous of construction disputes that occur largely through many reasons between the various parties in a design/ construction effort. The construction disputes may occur from the initial stage until the closeout stage of the project. The occurrences of construction disputes can lead negative impact towards client organization. The construction work progress will be slow due to the conflict and disputes between the contractor and client. Subsequently, the cash flow of the client will slow down. The client organization may suffer losses of time, cost and quality which consequently affected the image and background of the company. Unsatisfactory end users may create troubles such as making reports on building quality and irresponsible developer on delivery product. The disputes will be endless and only the developer will be suffer losses and even reputation of the company. Questions were raised: Why disputes have been a nature event in construction industry? What actually causes the disputes occur in construction industry?

Construction claims and other disputes frequently arise during construction projects. This will involve third party on behalf of owners, contractors, design professionals, and construction managers in the early resolution of these disputes through assistance in partnering, in negotiation, and in mediation.

When construction disputes cannot be resolved informally, disputes may lead to arbitration. If the construction disputes not able to reach the agreement between two parties or more, it will be litigation case. Construction disputes may end up involvement of high stakes such as multi-million dollar investments, professional reputations and even business survival of the owner.

### **1.3 Aim and Objectives of the Research**

The aim of this study is to identify causes of construction disputes contributed by clients, designers and constructors and eventually identify the occurrences of the construction disputes during the process of construction. The aim of this study can be achieved with following objectives:

- 1) To study the causes of dispute at construction project.
- 2) To identify the causes and major contributor of construction disputes.
- 3) To identify the impact of construction disputes on clients organization.
- 4) To suggest the precaution methods of construction dispute avoidance.

#### **1.4 Research Methodology**

The research methodology is the essential stages to determine the successful of achieving the aim and objectives. The major processes involved in this study are shown in Figure 1.1. These include subject of study, the literature review, data collection, data analysis and conclusion.

The subject of study is identified after a four semester of construction management studies and 3 year of working experiences. The objectives of the subject is identified through the observations of construction conflicts and disputes which encountered by clients, architects, engineers, contractors, specialist contractors and suppliers. The conceptualization of disputes is identified.

The collection of data will be divided into secondary data and preliminary data. The secondary data are books, research papers, reports, journals and internet. The secondary data is used to perform the literature reviews. As for the preliminary data, the data collected through questionnaire surveys for the construction industry participants. Finally, results of the questionnaires surveys will be analyzed. The findings and conclusion will be elaborated based on the analysis.

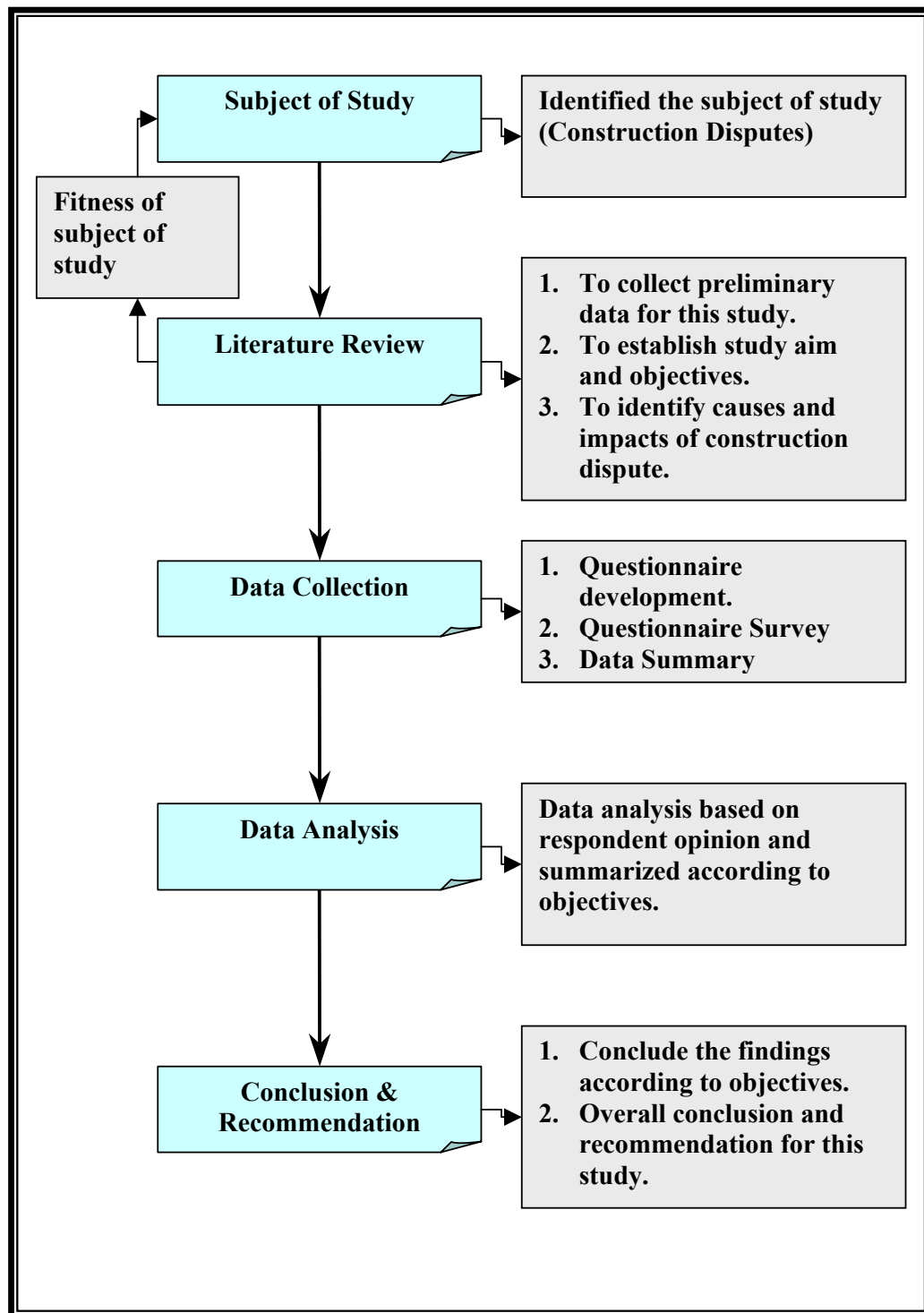


Figure: 1.1 Research Methodology

## 1.5 Organization of the Research

The dissertation is structure into 5 chapters and briefly described as follows:-

Chapter 1 introduces to the subject, background and justification for this study. This chapter also specifies the aim and objectives, the methodology of conducting this study and a brief summary on the structure of the research.

Chapter 2 highlights the related issues on causes of construction disputes from available literature which include the following:

- Definition of disputes;
- Disputes Occurrence;
- Research related to construction Disputes;
- The causes of construction dispute;
- Impact of disputes on client organization;
- Methods of recovery of Disputes

Chapter 3 describes in details the process of data collection that involved in the study which included introduction, data on the causes of construction disputes and its impact on client's organizations, questionnaire development, sampling, data summary, and summary and conclusion.

Chapter 4 discusses the process of the data analysis to achieve the aim and objectives of this study which included introduction, analysis of data, important index, findings and discussion, and conclusion.

Chapter 5 summarizes the conclusion from the research findings of the study and recommendation.

## **5.4 Further Studies**

More extensive investigations are recommended, particularly focused on the results presented and significant areas identified in this study. Quantitative data from more projects is needed. Case studies are also in progress to study the development of disputes scenarios, either into claims that are settled relatively soon through alternative dispute resolution or into protracted disputes that lead to litigation.

The previous cases of disputes that have been heard in court can be analyzed and identified the most significant contribution to dispute by the construction participants in Malaysia scenario. The methodology and basic terminology developed in this study may provide a useful framework for benchmarking and comparing scenarios in other contractual regimes.

## **5.5 Conclusion**

The findings of the study clearly show the parties involved in the construction project have their own point of views regarding the causes of dispute based on the nature of disputes occurrence during the project development. The impacts of disputes bring negative outcomes and frequently both parties suffer. However, most of the respondents agreed that unresolved disputes could be severely disrupting the construction process on time and cost overruns. Disputes are inevitable during the construction process and the best method of resolving a dispute is to remove the basic cause of dispute as well as maximizing the avoidance of disputes. It is often said that “prevention is better than a cure”.

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